



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

Docket Number USCG-2015-0246

RIN 1625-AA00

Safety Zone - Oil Exploration Staging Area in Dutch Harbor, AK

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes temporary safety zones in the Port of Dutch Harbor, Broad Bay, and adjacent navigable waters in the Dutch Harbor area on June 15, 2015. The temporary safety zones would encompass the navigable waters within a 25-yard radius of moored or anchored offshore exploration or support vessels, and the navigable waters within a 100-yard radius of underway offshore exploration or support vessels. The purpose of the safety zones is to protect persons and vessels during an unusually high volume of vessel traffic in the Port of Dutch Harbor, and the adjacent territorial sea due to additional vessel traffic associated with exploratory drilling operations

in the Chukchi and Beaufort seas during the summer of 2015. Lawful demonstrations are permitted outside of the temporary safety zones so long as they do not endanger the safety of vessels either moored or anchored within the port, transiting through the port, or transiting through the adjacent waters of the territorial sea.

DATES: Comments and related material must be received by the Coast Guard on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments identified by docket number USCG-2015-0246 using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail or Delivery: Docket Management Facility, Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202-366-9329.

See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail LT Heikki Laukkanen, Sector Anchorage Prevention, Coast Guard; telephone 907-428-4186, e-mail Heikki.J.Laukkanen@uscg.mil. If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

1. Submitting comments

If you submit a comment, please include the docket number for this rulemaking, (USCG-2015-0246), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at <http://www.regulations.gov>, or by fax, mail, or hand delivery,

but please use only one of these means. If you submit a comment online via www.regulations.gov, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, type the docket number [USCG-2015-0246] in the "SEARCH" box and click "SEARCH." Click on "Submit a Comment" on the line associated with this rulemaking.

<http://www.regulations.gov>, click on the "submit a comment" box, which will then become highlighted in blue. In the "Document Type" drop down menu select "Proposed Rule" and insert "USCG-2015-0246" in the "Keyword" box. Click "Search" then click on the balloon shape in the "Actions" column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8 1/2 by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment

period and may change the rule based on your comments.

2. Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type <http://www.regulations.gov>, click on the docket number in the "SEARCH" box insert "USCG-2015-0246" and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. " in the "Actions" column.

You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

4. Public meeting

The Coast Guard does not now plan to hold a public meeting you may submit a request for one using one of the methods

specified under ADDRESSES. Please explain why you believe a public meeting would be beneficial. If we determine one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the Federal Register.

B. Regulatory History and Information

Similar safety zones were implemented in previous years when oil exploration equipment was staged in Dutch Harbor, most recently in 2012.

C. Basis and Purpose

It is anticipated that vessels associated with exploratory drilling operations will call upon the Port of Dutch Harbor en route to proposed drilling sites in the Chukchi and Beaufort Seas. Based on information provided by private entities affiliated with oil exploration activities, the Coast Guard anticipates approximately 28 exploration or support vessels will call on Dutch Harbor during the period of time that the temporary safety zones are in effect. The addition of these vessels in conjunction with the high volume of traffic operating within the Port of Dutch Harbor creates a safety risk for all vessels operating therein. Such risks include reduced ability to navigate safely within the congested waterways of the port during the subject time period. To address these risks, the Coast Guard is proposing safety zones to ensure safe and efficient vessel transits within the Port of Dutch Harbor and

the adjacent territorial sea. The increased maritime traffic through the Port of Dutch Harbor and the adjacent territorial sea can potentially create a scenario where the safety of vessels transiting through this area is placed at heightened risk.

Based on the expectation of increased maritime traffic, the Coast Guard believes temporary safety zones are needed to address safety concerns for personnel aboard the support vessels, mariners operating other vessels in the vicinity of Dutch Harbor, and to protect the environment. The vessels and equipment anticipated to be staged within these areas, due to their size and technical complexity, pose a safety risk to vessels that attempt to navigate too closely to them. Limited rescue capabilities are available in the area. In an effort to mitigate the safety risks and any resulting environmental damage, the Coast Guard is proposing temporary safety zones within the Port of Dutch Harbor and the adjacent territorial sea. Enforcing temporary safety zones for each offshore exploration or support vessel while they are on the navigable waters in the Port of Dutch Harbor or the adjacent territorial sea will help ensure the safety of all vessels, including the diverse commercial fleets of Dutch Harbor.

In evaluating this request, the Coast Guard explored relevant safety factors and considered several criteria,

including, but not limited to: (1) The amount of commercial activity in and around the Port of Dutch Harbor; (2) safety concerns for personnel aboard the vessels; (3) sensitivity of the environment in the region and potential adverse affects caused by a grounding, allision, or collision; (4) the types and volume of vessels navigating in the vicinity of the Port of Dutch Harbor; and (5) the need to allow for lawful demonstrations without endangering the safe operations of support vessels. Vessels transiting in the vicinity of the proposed safety zones could consist of large commercial shipping vessels, fishing vessels, tugs and tows, and recreational vessels. Any group or individual intending to conduct lawful demonstrations in the vicinity of offshore exploration support vessels must do so outside of the temporary safety zones.

Results from a thorough and comprehensive examination of the five criteria identified above, in conjunction with International Maritime Organization guidelines and existing regulations, warrant establishment of temporary safety zones. These would significantly reduce the threat of collisions, allisions, or other incidents which could endanger the safety of all vessels operating on the navigable waters of the Port of Dutch Harbor and the adjacent territorial sea.

D. Discussion of Proposed Rule

For the reasons described above, the Coast Guard is proposing temporary safety zones that would surround the designated vessels while at anchor, moored or underway on the navigable waters of the Port of Dutch Harbor and the adjacent territorial sea in order to mitigate the potential safety risks associated with the increased vessel traffic. The proposed temporary safety zones would encompass the waters within 25 yards of the support vessel if the support vessel is moored or at anchor, and 100 yards if the support vessel is in transit.

The proposed temporary safety zones would be located around moored or moving vessels in the Port of Dutch Harbor, Broad Bay or adjacent navigable waters encompassed within the area from Cape Cheerful at 54-001 N 166-38.000 W, north to the limits of the U.S. territorial sea at 54-13.000 N 166-38.000 W, and from Princess Head at 53-59.000 N 166-25.900 W, north to the limits of the U.S. territorial sea at 54-12.619 N 166-25.883 W.

The proposed temporary safety zones would prohibit entry into the zones unless specifically authorized by the Captain of the Port, Western Alaska, or his designated on-scene representative. The zones would be in effect from June 15 through July 1 to accommodate the expected arrival of the vessels.

E. Regulatory Analyses

We developed this proposed rule after considering numerous

statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or executive orders.

1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. The safety zone will have negligible economic impact, as there will be ample room for navigation around it.

2. Impact on Small Entities

The proposed rule is not a significant regulatory action due to the minimal impact this will have on standard vessel operations within the port of Dutch Harbor because of the limited area affected and the limited duration of the rule. The proposed safety zones are also designed to allow vessels transiting through the area to safely travel around the proposed safety zones without incurring additional costs. The Regulatory Flexibility Act of 1980 (RFA), (5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential

impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities.

This proposed rule could affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit through or anchor in within a portion of the Port of Dutch Harbor or adjacent waters, from June 15, 2015, to July 15, 2015.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons: These safety zone restrictions are only effective from June 15, 2015, to July 15, 2015, and are limited only to waters within 25 yards of the support vessel if the support vessel is moored or at anchor, and 100 yards if the support vessel is in transit.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you

think it qualifies and how and to what degree this rulemaking would economically affect it.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. If the rulemaking would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

This proposed rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and determined

that this rulemaking does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "**FOR FURTHER INFORMATION CONTACT**" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rulemaking elsewhere in this preamble.

8. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children from Environmental Health Risks

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This proposed rule is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. Specifically, the proposed rule involves establishing a safety zone, which is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

Harbors; Marine safety; Navigation (water); Reporting and recordkeeping requirements; Security measures; Waterways

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR Part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS.

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T17-0246 to read as follows:

§ 165.T17-0246 Safety Zone; Port of Dutch Harbor; Dutch Harbor, Alaska.

(a) Location. The following areas are safety zones:

(1) All navigable waters within a 25-yard radius of a moored or anchored offshore exploration or support vessel, or within a 100-yard radius of any underway offshore exploration or support vessel, located within the Port of Dutch Harbor, Broad Bay or adjacent navigable waters encompassed within the area from Cape Cheerful at 54-001 N 166-38.000 W, north to the limits of the U.S. territorial

sea at 54-13.000 N 166-38.000 W, and from Princess Head at 53-59.000 N 166-25.900 W, north to the limits of the U.S. territorial sea at 54-12.619 N 166-25.883 W.

(b) Effective date. The temporary safety zones become effective at 12:01 a.m., June 15, 2015, and terminate on 11:59 p.m., July 1, 2015, unless sooner terminated by the Captain of the Port.

(c) Regulations. The general regulations governing safety zones contained in § 165.23 apply to all vessels operating within the area described in paragraph (a).

(1) If a non-exploration or support vessel is moored or anchored and an offshore exploration or support vessel transits near them such that it places the moored or anchored vessel within the 100-yard safety zone described in paragraph (a), the moored or anchored vessel must remain stationary until the offshore exploration or support vessel maneuvers to a distance exceeding the 100-yard safety zone.

(2) All persons and vessels shall comply with the instructions of the Captain of the Port (COTP) or designated on-scene representative, consisting of commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator

of a vessel shall proceed as directed by the COTP's designated on-scene representative.

(3) Entry into the safety zone is prohibited unless authorized by the COTP or his designated on-scene representative. Any persons desiring to enter the safety zone must contact the designated on-scene representative on VHF channel 16 (156.800 MHz) and receive permission prior to entering.

(4) If permission is granted to transit within the safety zone, all persons and vessels must comply with the instructions of the designated on-scene representative.

(5) The COTP, Western Alaska, will notify the maritime and general public by marine information broadcast during the period of time that the safety zones are in force by providing notice in accordance with 33 CFR 165.7.

(d) Penalties. Persons and vessels violating this rule are subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192.

Dated: April 14, 2015.

PAUL MEHLER III,
Captain, U. S. Coast Guard,
Captain of the Port, Western Alaska.

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